

RD AN No. 3885 (1980-D)  
July 22, 2003

TO: State Directors  
Rural Development

ATTENTION: Rural Housing Program Directors,  
Guaranteed Rural Housing Specialists,  
Rural Development Managers, and  
Community Development Managers

FROM: Arthur A. Garcia      *(Signed by Arthur A. Garcia)*  
Administrator  
Rural Housing Service

SUBJECT: Single Family - Guaranteed Rural Housing (SF-GRH)  
Foreclosure Sale Bids

**PURPOSE/INTENDED OUTCOME**

This Administrative Notice (AN) provides guidance on foreclosure sale bids for security property on which there is a Rural Housing guaranteed loan.

**COMPARISON WITH PREVIOUS AN:**

This AN replaces RD AN No. 3680, which expired October 31, 2002.

**BACKGROUND:**

RD Instruction 1980-D, Section 1980.374, covers a lender's responsibilities in pursuing the liquidation of a guaranteed loan account in an incurable default. Lenders must exercise due diligence in completing the liquidation process. This should include an analysis of the total debt, the property value, and the potential for the recovery of a deficiency judgment and/or hazard insurance proceeds. In this analysis, total debt prior to the foreclosure sale typically consists of the unpaid principal balance, accrued interest, protective advances, and other potential costs, such as foreclosure costs, bankruptcy costs and attorney fees.

EXPIRATION DATE:  
July 31, 2004

FILING INSTRUCTIONS:  
Preceding RD Instruction 1980-D

When foreclosure is the proposed method of liquidation, the amount bid at the foreclosure sale may have a significant impact on the net loss to the lender and to the Government. If the bid at the sale covers the full amount of the outstanding debt, the debt is satisfied in the eyes of the law and the lender has no basis for further collection from the borrower. The lender's position of first mortgagee is extinguished upon full payment of the debt and, therefore, there is no right to collect any proceeds from insurance or litigation against the property. In addition, when the bid is equivalent to or exceeds the market value of the property, potential buyers are less interested in bidding and it is more likely the lender will acquire title to the property as well as the costs of managing and disposing of it.

### **IMPLEMENTATION RESPONSIBILITIES:**

The Agency is frequently asked to provide or concur with a lender's bid at a foreclosure sale. Since RD Instruction 1980-D does not specifically address foreclosure sale bidding, the following guidance is provided:

It is in the mutual interest of the lender and the Government, as guarantor, to encourage third-party bidding by entering a foreclosure sale bid less than the value of the property. The intent is to avoid acquiring REO and its associated management and disposition costs.

Without prior concurrence of the Agency, a lender may enter a foreclosure sale bid of 85 percent of the current fair market value of the property. The fair market value upon which the bid is calculated must be a current appraisal of no more than six months old, or broker's price opinion (BPO) no more than 90 days old, of the property in "as-is" condition, with a 90 to 120-day marketing timeframe. If the interior of the security property is not accessible, the value may be based on exterior inspection only. The reduction reflects potential real estate owned (REO) property costs, including accrued interest on the unpaid principal balance, which are typically a minimum of 15 percent of the fair market value of the property.

Lenders are responsible for ensuring that the value determination that forms the basis for the bid, whether derived from a BPO or an appraisal, provides an accurate estimate of the market value of the property at the time of the foreclosure sale. The Agency recommends that the lender undertake a review of the valuation, particularly when it indicates a decline in value of 20% or more from the time when the loan was made. Lenders should be prepared to support the validity of their pre-foreclosure valuations if called upon by the Agency to do so.

Each Rural Development State Office is responsible for notifying state-approved lenders of the foreclosure sale bid guidance by a letter similar to Attachment 1. The National Office will advise nationally approved lenders concurrent with the issuance of this AN using Attachment 1. Copies of the AN can also be obtained at the Rural Development web site, [http://rdinit.usda.gov/regs/an\\_list.html](http://rdinit.usda.gov/regs/an_list.html).

You may direct questions regarding this AN to Joyce M. Halasz or Jenise T. Hight, Sr. Realty Specialists, Single Family Housing Guaranteed Loan Division at (202) 720-1452.

TO: Nationally Approved SF-GRH Lenders

ATTENTION: Servicing and Loss Claim Managers

SUBJECT: Single Family - Guaranteed Rural Housing (SF-GRH)  
Foreclosure Sale Bids

7 CFR 1980.374 covers a lender's responsibilities in pursuing the liquidation of a guaranteed loan account in an incurable default. Lenders must exercise due diligence in completing the liquidation process. This should include an analysis of the total debt, the property value, and the potential for the recovery of a deficiency judgment and/or hazard insurance proceeds. In this analysis, total debt prior to the foreclosure sale typically consists of the unpaid principal balance, accrued interest, protective advances, and other potential costs, such as foreclosure costs, bankruptcy costs and attorney fees.

When foreclosure is the proposed method of liquidation, the amount bid at the foreclosure sale may have a significant impact the net loss to the lender and to the Government. If the bid at the sale covers the full amount of the outstanding debt, the debt is satisfied in the eyes of the law and the lender has no basis for further collection from the borrower. The lender's position of first mortgagee is extinguished upon full payment of the debt and, therefore, there is no right to collect any proceeds from insurance or litigation against the property. In addition, when the bid is equivalent to or exceeds the market value of the property, potential buyers are less interested in bidding and it is more likely the lender will acquire title to the property as well as the costs of managing and disposing of it.

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Copies of RD AN No. 3885 dated July 22, 2003 that addresses this topic can be obtained at the Rural Development web site, [http://rdinit.usda.gov/regs/an\\_list.html](http://rdinit.usda.gov/regs/an_list.html). You may direct questions regarding this AN to Joyce M. Halasz or Jenise T. Hight, Sr. Realty Specialists, Single Family Housing Guaranteed Loan Division at (202) 720-1452.